

Judicial Nominations

Q. The judiciary you hope to create with these nominees, could you——

The President. Those aren't the nominees.

Q. Well, they're——

The President. That's Senator Burr—to be.

Q. Could you offer thoughts as to how that judiciary is different from the one that might exist under a Democratic Kerry-Edwards administration, and perhaps with particular reference to issues of civil damage suits and abortion?

The President. Well, look, I've—first of all, on issues like abortion, I don't have a litmus test. In other words, when the nominees come before people in my administration, we don't say, "What is your specific position on that issue or another issue?" What we say to the person is, "What is your judicial temperament? Will you be willing to faithfully interpret the law, or will you view your position on the bench to rewrite law?" And that is the difference of judicial philosophies. I've been consistent in naming people to the bench that will faithfully interpret the law. I suspect that's one of the reasons why a minority of Senators are blocking my nominees and creating a judicial emergency.

And after I leave here, I'm going to Michigan to bring up the same point. There are six judges that are being withheld because of their judicial temperament, not because of a specific issue but because of their temperament. And I don't believe in litmus tests. I do believe in making sure that we share a philosophy. As I said before, I want the legislators legislating. I don't want the judges legislating.

Look, you look awfully hot, and I think it's time for us to go to the next event. Thank you.

Q. [*Inaudible*]*—*difference from a Kerry-Edwards administration—could you see how they might——

The President. Of course. They're the ones blocking the nominees in the first place. They're the types of Senators who are blocking the advance of these nominees.

Take for example here in North Carolina. Senator Edwards will not allow two of the

nominees to whom I referred to even get to the committee for a hearing.

Thank you.

NOTE: The President spoke at 11:27 a.m. at Raleigh Durham International Airport. In his remarks, he referred to Representative Richard Burr of North Carolina, candidate for U.S. Senate.

Remarks Following a Meeting With Judicial Nominees in Waterford, Michigan

July 7, 2004

Good afternoon. I just met with six of my judicial nominees from the State of Michigan. I knew these were decent people, capable people, when I nominated them. My meeting with them today confirmed that. These are good people.

They are of the highest caliber. They've been rated well by the ABA, "qualified" or "well-qualified." In other words, the experts have taken a look at them and said these are qualified people to do the job. They're devoted public servants. They—their nominations are stalled because of the tactics of a minority of Senators. These are superb nominees. They deserve a vote. They deserve to have their day on the Senate floor.

Four of the nominees are waiting to join the Sixth Circuit Court of Appeals. David McKeague was confirmed unanimously by the Senate 12 years ago to serve as a Federal judge for the Western District of Michigan. Susan Neilson is an outstanding judge with more than a decade of experience on the bench. Henry Saad is a State appeals court judge. Richard Griffin has had 16 years of experience as a State judge. These experienced and dedicated individuals are needed, vitally needed, on the Sixth Circuit Court of Appeals. I'll tell you why. Congress has authorized 16 judges for this court, yet 4 seats are vacant. All four of these vacancies have been designated judicial emergencies by the Judicial Conference of the United States. It is irresponsible for the United States Senate to deny an appeals court 25 percent of the judges it needs.

My nominees for the district courts in Michigan have also waited far too long. Tom Ludington, a respected State judge for nearly

10 years, has waited more than 21 months without a vote. Dan Ryan, a jurist with a decade of experience on the State bench, is held up for more than a year. I believe this treatment is unfair. I believe it's disrespectful. It is a disservice to the people of this State.

My Michigan nominees are not only the ones—are not the only ones being blocked by a Senate minority. Since I took office, more appeals court nominees have been forced to wait over a year just for a hearing than in the past 50 years combined. Six of my appeal court nominees have earned enough support to be confirmed by a vote on the floor of the Senate yet have been filibustered. It's an unprecedented step against appeals court nominees.

I believe this is unfair treatment. I believe that some Senators are doing this because they don't appreciate the fact that I named judges who will faithfully interpret the law, not legislate from the bench. They apparently want activist judges who will rewrite the law from the bench. I believe if laws need to be written, they need to be written by the legislature, by the legislative body.

Some Members are undermining the quality of justice in America by playing politics with these nominees. You see, vacancies on the bench leave sitting judges overworked. They cause needless delays in the provision of justice.

Now, I am pleased that the Senate recently voted on 25 of my judicial nominees. That was a welcome step. Yet it's not enough. These six from Michigan have waited far too long. The Senate must hear that there is an emergency. The time for giving these men and women a fair hearing is now. They deserve an up-or-down vote. I proposed a way to fix this system, and that is for judges to provide a one-year advance notice on retirement or departure. Upon that notice, the President would select a nominee within 180 days. And then the Senate would hold both a hearing and an up-or-down vote within 180 days of the nomination. This seems fair to me. It would treat these people who are willing to serve fairly.

I met with the six members, six nominees, because I wanted to assure them I was not going to abandon their nomination, no matter what the politics was like in the U.S. Sen-

ate. And I wanted to thank them for their patience. It's not easy to be nominated and then have your hearing held up for political purposes.

These are good, decent people. I asked them to thank their families. And now I'm calling upon the Senators from this State and the minority of Senators who were refusing to move my nominees along to be fair and just give them a vote. They can express their opinions about whether or not they think these judges are qualified. Obviously, I think they are. They can argue about their judicial temperament, and that's a fine debate. But for fairness sake, give them a vote, up or down.

The people of Michigan must know that six good, decent Michiganders who are capable people are not being allowed to serve their State on the Federal benches because of politics being played in Washington, DC.

Thank you for giving me a chance to come by and discuss this very important issue. I appreciate it.

NOTE: The President spoke at 4:50 p.m. at the Oakland County International Airport.

Executive Order 13344—Amending Executive Order 13261 on the Order of Succession in the Environmental Protection Agency

July 7, 2004

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345, *et seq.*, it is hereby ordered that Executive Order 13261 of March 19, 2002, is amended as follows:

Section 1. In section 2, subsections (a), (b), and (c) are deleted and replaced with the following new subsections (a), (b), and (c):

(a) Assistant Administrator, Office of Solid Waste;

(b) Assistant Administrator for Toxic Substances;